

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

|                                  |   |                             |
|----------------------------------|---|-----------------------------|
| In the Matter of                 | ) |                             |
|                                  | ) |                             |
| Suburban Cable TV Company, Inc.  | ) | CUID No. PA1650 (Pottstown) |
|                                  | ) |                             |
| Petition for Reconsideration and | ) |                             |
| Refund Plan                      | ) |                             |

**ORDER**

**Adopted: February 6, 2002**

**Released: February 8,**

**2002**

By the Deputy Chief, Cable Services Bureau:

1. In this Order we consider a petition for reconsideration ("Petition") of our Order, DA 98-746 ("Refund Order"),<sup>1</sup> filed with the Federal Communications Commission ("Commission") on May 26, 1998 by the above-referenced operator ("Operator").<sup>2</sup> Our Refund Order resolved a complaint filed against Operator's cable programming service tier ("CPST") rates. In response to our Refund Order, Operator filed an amended refund plan on February 4, 2002.<sup>3</sup> In this Order, we dismiss Operator's Petition as moot and approve Operator's amended refund plan.

2. Under the Communications Act,<sup>4</sup> the Commission was authorized, at the time the referenced complaint was filed, to review the CPST rates of cable systems not subject to effective competition to ensure that rates charged are not unreasonable. The Cable Television Consumer Protection and Competition Act of 1992<sup>5</sup> ("1992 Cable Act") required the Commission to review CPST rates upon the filing of a valid complaint by a subscriber or local franchising authority ("LFA"). The Telecommunications Act of 1996 ("1996 Act")<sup>6</sup> and our rules implementing the legislation ("Interim Rules"),<sup>7</sup> required that a complaint against the CPST rate be filed with the Commission by an LFA that has

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<sup>1</sup> See In the Matter of Suburban Cable TV Company, Inc., DA 98-746, 13 FCC Rcd 8451 (1998). The Refund Order required Operator to determine the overcharges to cable programming service tier ("CPST") subscribers for the period stated in the Refund Order and file a report with the Chief, Cable Services Bureau, stating the cumulative refund amount determined (including franchise fees and interest), describing the calculation thereof, and describing its plan to implement the refund within 60 days of Commission approval of the plan.

<sup>2</sup> The term "Operator" also refers to Operator's predecessors and successors in interest.

<sup>3</sup> Operator calculated a total refund liability of \$363,256.82.

<sup>4</sup> Communications Act, Section 623(c), *as amended*, 47 U.S.C. §543(c) (1996).

<sup>5</sup> Pub. L. No. 102-385, 106 Stat. 1460 (1992).

<sup>6</sup> Pub. L. No. 104-104, 110 Stat. 56 (1996).

<sup>7</sup> See Implementation of Cable Act Reform Provisions of the Telecommunications Act of 1996, 11 FCC Rcd 5937 (1996).

received more than one

subscriber complaint.<sup>8</sup> The filing of a complete and timely complaint triggers an obligation upon the cable operator to file a justification of its CPST rates.<sup>9</sup> The Operator has the burden of demonstrating that the CPST rates complained about are reasonable.<sup>10</sup> If the Commission finds a rate to be unreasonable, it shall determine the correct rate and any refund liability.<sup>11</sup>

3. Operators must use the FCC Form 1200 series to justify rates for the period beginning May 15, 1994.<sup>12</sup> Cable operators may justify rate increases on a quarterly basis using FCC Form 1210, based on the addition and deletion of channels, changes in certain external costs and inflation.<sup>13</sup> Operators may justify their rates on an annual basis using FCC Form 1240 to reflect reasonably certain and quantifiable changes in external costs, inflation, and the number of regulated channels that are projected for the twelve months following the rate change.<sup>14</sup> Any incurred cost that is not projected may be accrued with interest and added to rates at a later time.<sup>15</sup>

4. In its Petition, Operator argues that it should not have to calculate refund liability for refund periods which have been trued-up and thus accounted for in its FCC Form 1240 filings that have been reviewed as part of the Refund Order. Because it is already our policy not to require an Operator to separately calculate its refund liability for periods that have been trued-up in an FCC Form 1240 filing that we have reviewed as part of a refund order,<sup>16</sup> we will dismiss Operator's Petition as moot. Our review of Operator's refund plan reveals that the refund plan fulfills the requirements of the Refund Order provided Operator accrues interest up to the date of the refund.

5. Accordingly, IT IS ORDERED, pursuant to Section 1.106 of the Commission's rules, 47 C.F.R. § 1.106, that Operator's petition for reconsideration IS DISMISSED AS MOOT.

6. IT IS FURTHER ORDERED, that Operator's refund plan IS APPROVED AS MODIFIED HEREIN, and IT IS ORDERED, pursuant to Section 76.962 of the Commission's rules, 47 C.F.R. § 76.962, that Operator implement its refund plan within 60 days of the date of this Order.

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<sup>8</sup> See Communications Act, Section 623(c), *as amended*, 47 U.S.C. Section 543(c) (1996).

<sup>9</sup> See Section 76.956 of the Commission's rules, 47 C.F.R. § 76.956.

<sup>10</sup> *Id.*

<sup>11</sup> See Section 76.957 of the Commission's rules, 47 C.F.R. § 76.957.

<sup>12</sup> See Section 76.922 of the Commission's rules, 47 C.F.R. § 76.922.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> See *In the Matter of Suburban Cable TV Company, Inc.*, DA 00-1060, 15 FCC Rcd 8148 (2000).

7. IT IS FURTHER ORDERED, pursuant to Section 76.962 of the Commission's rules, 47 C.F.R. § 76.962, that Operator file a certificate of compliance with the Chief, Cable Services Bureau, within 90 days of the release of this Order certifying its compliance with this Order.

8. This action is taken pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. § 0.321.

**FEDERAL COMMUNICATIONS COMMISSION**

William H. Johnson, Deputy Chief  
Cable Services Bureau